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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,875	05/12/2005	Eronne Mamei	4017-31	6920

23117 7590 07/03/2006

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EXAMINER

LESLIE, MICHAEL S

ART UNIT	PAPER NUMBER
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3745

DATE MAILED: 07/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/534,875

Applicant(s)

MAMEI ET AL.

Examiner

Michael Leslie

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 14 and 19-26 is/are rejected.
- 7) ☒ Claim(s) 15-18 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/12/2005</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 23-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 23 and 26, the term "interposable" renders the claim indefinite because it is unclear whether the corresponding limitation is actually required by the claim to be part of the structure.

Claims 24 and 25 recite the limitation "said valve". There is insufficient antecedent basis for this limitation in the claims. It appears the recitation should be --said at least one protective valve--.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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Claims 14, 19-21, 23, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by MacDonald et al (5020324).

MacDonald et al discloses a fluid-dynamic circuit for supplying primary and auxiliary uses with preset priorities comprising a source of pressurized fluid (12), at least one first use (14) with primary priority, at least one second use (20, 22) with secondary priority, at least one third use (16, 18) with low priority, wherein the first use is directly connected to the source by a relative first pipe (46), that the second use and third use are connectable to the source by a second (68) and a third pipe (70) by interposing a valve (40) equipped with a distributor member (41) controlling the second and third pipe and movable according to at least three connection configurations, in a first configuration the second use and third use being shut, in a second configuration the second use being open and third use shut, in a third configuration the second use being open and third use open. Wherein the distributor member is normally contrasted in the second and third connecting configuration by at least one elastic element (43) with a presettable reactive force, to recall the distributor member to the first configuration in the absence of the signals of a first sensor line and of a further sensor line, the distributor member is positionable in at least a fourth configuration and a fifth configuration, the fourth configuration being interposed between the first configuration and the second configuration, the fifth configuration being interposed between the second configuration and the third configuration, in the fourth configuration the second use being partially shut and the third use being shut, in the fifth configuration the second use being open and the third use being partially shut (because distributor member (41) is proportionally controlled the fourth and fifth configurations will exist between the respective first and second and second and third configurations when the pressure is

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between the given thresholds, see column 2, lines 44-61), and the source is a pumping unit of the fixed-flow type. Between the source and the first use at least one protective valve (38) is interposed that is equipped with an organ with a presettable intervention threshold, the protective valve is piloted by a shutter member between at least two intervention positions, the protective valve being open in a first position and shut in a second position.

Claims 14, 19-21, and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Buscher et al (6629411).

Buscher et al discloses a fluid-dynamic circuit for supplying primary and auxiliary uses with preset priorities comprising a source of pressurized fluid (2), at least one first use (10) with primary priority, at least one second use (16) with secondary priority, at least one third use (20) with low priority, wherein the first use is directly connected to the source by a relative first pipe (18), that the second use and third use are connectable to the source by a second (6) and a third pipe (8) by interposing a valve (4) equipped with a distributor member (46) controlling the second and third pipe and movable according to at least three connection configurations, in a first configuration the second use and third use being shut, in a second configuration the second use being open and third use shut, in a third configuration the second use being open and third use open. Wherein the distributor member is normally contrasted in the second and third connecting configuration by at least one elastic element (44) with a presettable reactive force, to recall the distributor member to the first configuration in the absence of the signals of a first sensor line and of a further sensor line, the distributor member is positionable in at least a fourth configuration and a fifth configuration, the fourth configuration being interposed between the

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first configuration and the second configuration, the fifth configuration being interposed between the second configuration and the third configuration, in the fourth configuration the second use being partially shut and the third use being shut, in the fifth configuration the second use being open and the third use being partially shut (because distributor member (46) is proportionally controlled the fourth and fifth configurations will exist between the respective first and second and second and third configurations when the pressure is between the given thresholds), and the source is a pumping unit of the fixed-flow type. A valve (329) limiting the flow of fluid towards the first use is interposed between the source and the first use.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over MacDonald et al (5020324) in view of Miller (3971216).

MacDonald et al discloses a fluid-dynamic circuit for supplying primary and auxiliary uses as described above, but does not teach that the source of pressurized fluid is a pumping unit of variable-flow type.

Miller teaches a hydraulic system supplied with fluid using either of a fixed-flow and a variable-flow type pumping unit.

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It would be obvious to one having ordinary skill in the art at the time the invention was made to modify the system of MacDonald et al by replacing the fixed-flow type pumping unit with a variable-flow type pumping unit as taught by Miller for the purpose of controlling the fluid volume delivered to the system.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buscher et al (6629411) in view of Miller (3971216).

Buscher et al discloses a fluid-dynamic circuit for supplying primary and auxiliary uses as described above, but does not teach that the source of pressurized fluid is a pumping unit of variable-flow type.

Miller teaches a hydraulic system supplied with fluid using either of a fixed-flow and a variable-flow type pumping unit.

It would be obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Buscher et al by replacing the fixed-flow type pumping unit with a variable-flow type pumping unit as taught by Miller for the purpose of controlling the fluid volume delivered to the system.

Allowable Subject Matter

Claims 15-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Claim 25 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 4556078, 6176083, and 6460655 each disclose hydraulic circuits having priority flow valves.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Leslie whose telephone number is (571) 272-4819. The examiner can normally be reached on M-F 8:00am - 4:30pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571) 272-4820. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ML

June 26, 2006


Michael Leslie
Patent Examiner
AU 3745